



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 7052022

Date: JAN. 27, 2020

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (Extraordinary Ability)

The Petitioner, a cardiologist, seeks classification as an alien of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Nebraska Service Center denied the petition, concluding that although the Petitioner satisfied three of the initial evidentiary criteria, as required, she did not show sustained national or international acclaim and demonstrate that she is among the small percentage at the very top of the field of endeavor.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. *See* Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

I. LAW

Section 203(b)(1) of the Act makes visas available to immigrants with extraordinary ability if:

- (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
- (iii) the alien's entry into the United States will substantially benefit prospectively the United States.

The term "extraordinary ability" refers only to those individuals in "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). The implementing regulation

at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate sustained acclaim and the recognition of his or her achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then he or she must provide sufficient qualifying documentation that meets at least three of the ten categories listed at 8 C.F.R. § 204.5(h)(3)(i) – (x) (including items such as awards, published material in certain media, and scholarly articles).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011). This two-step analysis is consistent with our holding that the “truth is to be determined not by the quantity of evidence alone but by its quality,” as well as the principle that we examine “each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true.” *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

II. ANALYSIS

The Petitioner indicates employment as chief physician in the cardiology department at the [] [] in [] China since 2007.¹

A. Evidentiary Criteria

Because the Petitioner has not indicated or established that she has received a major, internationally recognized award, she must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Director found that the Petitioner met three of the evidentiary criteria relating to judging at 8 C.F.R. § 204.5(h)(3)(iv), scholarly articles at 8 C.F.R. § 204.5(h)(3)(vi), and leading or critical role at 8 C.F.R. § 204.5(h)(3)(viii). The record reflects that the Petitioner reviewed articles for a journal, authored scholarly articles in professional publications, and performed in a leading role as chief physician for [].

Accordingly, we agree with the Director that the Petitioner fulfilled three criteria. Because the Petitioner has shown that she satisfies three criteria, we will evaluate the totality of the evidence in the context of the final merits determination below.²

¹ See cover letter submitted at initial filing of the petition.

² See USCIS Policy Memorandum PM 602-0005.1, *Evaluation of Evidence Submitted with Certain Form I-140 Petitions; Revisions to the Adjudicator's Field Manual (AFM) Chapter 22.2, AFM Update AD11-14* 13 (Dec. 22, 2010), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html> (providing that objectively meeting the regulatory criteria in part one alone does not establish that an individual meets the requirements for classification as an individual of extraordinary ability under section 203(b)(1)(A) of the Act).

B. Final Merits Determination

As the Petitioner submitted the requisite initial evidence, we will evaluate whether she has demonstrated, by a preponderance of the evidence, her sustained national or international acclaim,³ that she is one of the small percentage at the very top of the field of endeavor, and that her achievements have been recognized in the field through extensive documentation. In a final merits determination, we analyze a petitioner's accomplishments and weigh the totality of the evidence to determine if her successes are sufficient to demonstrate that she has extraordinary ability in the field of endeavor. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20.⁴ In this matter, we determine that the Petitioner has not shown her eligibility.

At the outset, the Petitioner has not sufficiently documented her academic and professional career. Specifically, the Petitioner provided very little evidence of her education and employment history. The record reflects recommendation letters that make some references to her schooling and work experience. For instance, [redacted] indicated that the Petitioner "graduated from [redacted] [redacted] in 1986 and now serves as professor and chief physician in the Cardiology Department of [redacted]" and "studied in Japan for two years from 1996." Moreover, [redacted] [redacted] briefly stated that the Petitioner "studied in Japan for 2 years." The commentary for the proposed regulations implementing section 203(b)(1)(A)(i) of the Act provides that the "intent of Congress that a very high standard be set for aliens of extraordinary ability is reflected in this regulation by requiring the petitioner to present more extensive documentation than that required" for lesser classifications. 56 Fed. Reg. 30703, 30704 (July 5, 1991).⁵ Here, the significant gaps in the evidence relating to both her academic and professional career do not meet this very high standard, nor do they support a finding that the Petitioner has sustained national or international acclaim.

As mentioned above, the Petitioner judged the work of others within her field, authored scholarly articles, and performed in a leading role. However, she has not demonstrated that her achievements reflect a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990).

Relating to her service as a judge of others, an evaluation of the significance of her experience is appropriate to determine if such evidence indicates the required extraordinary ability for this highly restrictive classification. *See Kazarian*, 596 F. 3d at 1121-22.⁶ She provided a letter from [redacted] [redacted] department at the *Journal of China Medical University*, who stated that the Petitioner "has reviewed dozens of articles." In addition, the Petitioner submitted evidence showing her as a [redacted] for the textbook, [redacted] Further, the Petitioner presented evidence

³ *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 14 (stating that such acclaim must be maintained and providing *Black's Law Dictionary's* definition of "sustain" as to support or maintain, especially over a long period of time, and to persist in making an effort over a long period of time).

⁴ *Id.* at 4 (instructing that USCIS officers should then evaluate the evidence together when considering the petition in its entirety to determine if the petitioner has established by a preponderance of the evidence the required high level of expertise of the immigrant classification).

⁵ *See also* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 2.

⁶ *See also* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 13 (stating that an individual's participation should be evaluated to determine whether it was indicative of being one of that small percentage who have risen to the very top of the field of endeavor and enjoying sustained national or international acclaim).

reflecting that she twice served on the academic review committee at the Annual Meeting of Chinese [redacted] in 2012 and 2017. However, the Petitioner did not establish that her judging instances places her among the small percentage at the very top of her field. *See* 8 C.F.R. § 204.5(h)(2). She did not show, for example, how her judging experience compares to others at the very top of the field.

In addition, the Petitioner did not demonstrate that her judging occurrences contribute to a finding that she has a “career of acclaimed work in the field” as contemplated by Congress or indicative of the required sustained national or international acclaim. *See* H.R. Rep. No. at 59 and section 203(b)(1)(A) of the Act. The Petitioner did not establish, for instance, that she garnered wide attention from the field based on her work as a journal reviewer or committee member. Accordingly, the Petitioner did not show that she has sustained national or international acclaim. *See* section 203(b)(1)(A) of the Act.

Moreover, serving on a judging committee or in the peer review process does not automatically demonstrate that an individual has extraordinary ability and sustained national or international acclaim at the very top of her field. Without evidence that sets her apart from others in her field, such as evidence that she has a consistent history of completing a substantial number of review requests relative to others, served in editorial positions for distinguished journals or publications, or chaired technical committees for reputable conferences, the Petitioner has not shown that her peer review experience places her among “that small percentage who [has] risen to the very top of the field of endeavor.” *See* 8 C.F.R. § 204.5(h)(2).

Likewise, the publication of her research does not automatically place one at the top of the field.⁷ Here, the Petitioner presented evidence showing that she authored 118 articles from 1983 to 2018. However, the Petitioner did not demonstrate that this publication record is consistent with having a “career of acclaimed work” or qualifies for this “very high standard.” *See* H.R. Rep. No. at 59 and 56 Fed. Reg. at 30704. Moreover, the Petitioner did not establish that her authorships reflect being among the small percentage at the very top of her field. *See* 8 C.F.R. § 204.5(h)(2). The Petitioner, for instance, did not show the significance of her authorship of 118 articles over 35 years or how her publications compare to others with similar years of experience who are viewed to be at the very top of the field.

As authoring scholarly articles is often inherent to the work of scientists and researchers, the citation history or other evidence of the influence of her articles can be an indicator to determine the impact and recognition that her work has had on the field and whether such influence has been sustained. For example, numerous independent citations for an article authored by the Petitioner may provide solid evidence that her work has been recognized and that other cardiologists have been influenced by her work. Such an analysis at the final merits determination stage is appropriate pursuant to *Kazarian*, 596 F. 3d at 1122. Here, the record indicates that the Petitioner provided evidence reflecting that her articles cumulatively garnered hundreds of citations.⁸ However, the majority of the articles have been cited 10 times or less, including dozens that have been cited two times or less.

⁷ *See also* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 13 (providing that publications should be evaluated to determine whether they were indicative of being one of that small percentage who has risen to the very top of the field of endeavor and enjoying sustained national or international acclaim).

⁸ *See* screenshots from xueshu.baidu.com.

While the Petitioner's citations, both individually and collectively, show that the field has noticed her work, she has not established that such citations are sufficient to demonstrate a level of interest in the field commensurate with sustained national or international acclaim. *See* section 203(b)(1)(A) of the Act. Moreover, the Petitioner has not shown that the citations to her research represent attention at a level consistent with being among small percentage at the very top of her field. *See* 8 C.F.R. § 204.5(h)(2).⁹ Although the record reflects that she submitted the citatory history from five peers in similar occupations, the Petitioner did not demonstrate that these individuals are among that small percentage at the very top of the field. Further, while the citatory history shows that she garnered more citations than her submitted few samples, the Petitioner did not establish that her citations are unusually high when compared to others in her field as a whole, rather than a selective number of peers with lower citation statistics, setting her among the top of the field.

As it pertains to her position as chief physician at [REDACTED], the Petitioner demonstrated that the role itself is leading to the university hospital. However, the Petitioner did not establish that her role at a single organization or establishment represents sustained national or international acclaim or a "career of acclaimed work in the field." *See* section 203(b)(1)(A) of the Act and H.R. Rep. No. at 59.

Moreover, while the Petitioner submitted reference letters that discussed her research findings and studies, they did not show that her chief physician role resulted in widespread acclaim from her field, that she drew significant attention from the greater field, or that overall field considers her be at the very top of the field of endeavor. Further, her reference letters made broad assertions without providing specific, detailed information establishing that the Petitioner received sustained national or international acclaim either based on her role as the chief physician or based on her contributions in the field as a whole. For example, [REDACTED] discussed the Petitioner's research relating to coronary heart disease risk assessment and therapeutic evaluation and indicated that "it improved the accuracy rate of coronary heart disease diagnosis from 80% to 90%, which is a pioneering work in the field."¹⁰ Similarly, [REDACTED] stated that "[i]n 2016, [the Petitioner] successfully performed the first case of coronary [REDACTED] in [REDACTED] Province, and since then, our hospital successfully completed 200 cases of coronary [REDACTED] under her leadership, winning [sic] high acclaim from the Chinese counterparts and becoming a renowned demonstration unit for coronary [REDACTED] nationwide." Likewise, [REDACTED] commented that he collaborated with her for the book, [REDACTED], and asserted that "the book has been welcomed and praised by the doctors of cardiology and nuclear medicine, and [has] become the most comprehensive and systematic book about nuclear cardiology in China so far."

However, the recommenders did not support their letters with specific information explaining how the Petitioner's work at [REDACTED] and research drew sustained national or international acclaim and places her among the small percentage at the very top of the field. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2). For instance, [REDACTED] did not further elaborate and explain how the overall field views the Petitioner's work as "pioneering" rather than an uncorroborated personal opinion.

⁹ The Petitioner also submitted evidence of her attendance and presentation at scientific conferences, such as the First [REDACTED] Conference of Nuclear Medicine, the [REDACTED] of Nuclear Cardiology [REDACTED] Scientific Session, and the [REDACTED] International Cardiology Congress. However, the Petitioner did not establish that her participation resulted in sustained national or international acclaim or demonstrates evidence of being among the small percentage at the very top of the field. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

¹⁰ Although we discuss a sampling of letters, we have reviewed and considered each one.

Moreover, while [] indicated that the Petitioner performed the first case of coronary [] in [] Province, he did not articulate the significant impact or influence in the field as a whole rather than limited to the hospital where she performed the procedure. Furthermore, [] did not justify his claim that the book “is the most comprehensive and systematic book about nuclear cardiology in China,” and whether the book received attention from the overall field at a level consistent with being among the small percentage at the very top of the field. Although the Petitioner performed in the expected role of a chief physician at a hospital and made original contributions through her research and work, she did not demonstrate that she garnered sustained national or international acclaim. *See* section 203(b)(1)(A) of the Act.

The record as a whole, including the evidence discussed above, does not establish her eligibility for the benefit sought. Moreover, the Petitioner did not fully document her academic and professional career. Here, the Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than those progressing toward the top. Even major league level athletes do not automatically meet the statutory standards for classification as an individual of “extraordinary ability.” *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm’r 1994). While the Petitioner need not establish that there is no one more accomplished to qualify for the classification sought, we find the record insufficient to demonstrate that she has sustained national or international acclaim and is among the small percentage at the top of her field. *See* section 203(b)(1)(A)(i) of the Act and 8 C.F.R. § 204.5(h)(2).

III. CONCLUSION

For the reasons discussed above, the Petitioner has not demonstrated her eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.